IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3227 OF 2006

Smt.Nalini Krishna Mali & 2 others Applicants
versus
State of Maharashtra Respondents

Mrs.Lily Sarkar for applicants.
Mrs.M.H.Mhatre, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 30th August 2006

PC :

1. The first applicant/petitioner before me is a lady and a senior citizen so also house wife. The second applicant is the husband of the deceased whereas third applicant is the brother in law.

2. These applicants/petitioners apprehend arrest in CR No.I-122 of 2006 registered at Badlapur Police Station alleging offence punishable under sections 498A, 306 and 34 of IPC..

3. The father of the deceased has given a statement and has pointed out that the marriage

of the deceased was solemnized in the year 2001 with the second applicant and they were residing at Badlapur. The deceased was named as Mrs.Laxmi after her marriage. The marriage resulted in birth of one daughter Dhanashri. Thereafter, the allegation is that second applicant was beating the deceased allegedly on account of the fact that she gave birth to a female child. The allegation is that the second applicant demanded certain monies and used to send the deceased back to her parents house from time to time after beating her.

4. As far as applicant nos.1 and 3 are concerned, in the statement, the allegation is that these applicants, as in-laws, were harassing the deceased all the time saying that she should divorce the second applicant.

5. The deceased apparently committed suicide by jumping in the well on 10th May 2006. The statement is recorded on 1st August 2006.

6. The only submission on behalf of the applicants is that there is a gross delay in registering the FIR inasmuch as the death occurred on 10th May 2006 and the complaint was

lodged on 1st August 2006.

7. I have perused the application and the annexures thereto with the assistance of Mrs.Sarkar appearing for the applicants.

8. For the reasons assigned by the Trial Court I find that applicant no.2 husband against whom a specific allegation is made in the statement of the father of the deceased, a case for pre-arrest bail, as far as he is concerned, is not made out.

9. As far as first applicant-mother and the third applicant are concerned, in the light of the fact that the statement was recorded on 1st August 2006 and there is prima facie allegation only insofar as certain demand and harassment, so also their being no material produced before the Trial Court that they would not co-operate with the investigation and would not otherwise be available for the trial, they are entitled to be released in the event of their arrest in the subject CR, provided, they abide by the conditions set out below.

10. ORDER :-

(i) In the event of the arrest of the applicant in connection with C.R.No.I-122 of 2006 registered with Badlapur Police Station, Badlapur the applicant nos.1 and 3 shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- (Rs.Fifteen thousand only) each with one or two local sureties in the like sum;

(ii) Application for bail made by applicant no.2 is rejected;

(iii) The bail is granted subject to condition that the applicants shall attend Badlapur Police Station once in a fortnight till charge sheet is filed;

(iv) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The applicant shall not tamper with the prosecution evidence.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

(vii) Application is disposed of in the above terms.

(S.C.DHARMADHIKARI, J.)